IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.244 OF 2006

Hukmichand H. Hain .. Petitioner

V/s

Union of India & Ors. .. Respondents

Shri.Naresh C. Thacker i/b. N.M.Shah for the Petitioner.
Shri.M.I.Sethana, Senior Counsel for the Respondents.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 28TH FEBRUARY, 2006.

P.C.:

1. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondents. By this petition, the Petitioner is challenging the order dated 25th November, 2005 whereby the Appellate Tribunal for Foreign Exchange has directed the Petitioner to make a pre-deposit of Rs.50% of the penalty amount within 60 days. It appears that the Respondent had passed an order of adjudication dated 17th December, 1999 against which, Petitioner had preferred an appeal being Appeal No. 57 of 2000 before the Tribunal in which, initially the order of stay came to be granted pending the dispensation application, by the Appellate Tribunal by its order

dated 19th May, 2000 i.e. almost more than five years back. By the said order the Tribunal had made it clear that in the event dispensation is allowed the appeal shall straightway be taken up for disposal on merits. Since the petition for dispensation of pre-deposit itself has been pending for nearly 6 years, the ad-interim-relief has been continuing.

2. In the aforesaid facts and circumstances of the case, we direct that the appeal itself should be heard as expeditiously as possible without any pre-deposit. In view thereof, the impugned order dated 25th November, 2005 stands quashed and set aside, the appeal shall be heard by the Appellate Court without any pre-deposit. Rule is made absolute in terms of the above.

3. The learned Counsel for the Petitioner undertakes to furnish a true and correct copy of the Order in Original dated 14th June, 1990, in the above proceedings, which is annexed as Exhibit- "G" to the petition, within two weeks from today. If the Petitioner fails to furnish the correct copy of the same, the above order shall stand vacated forthwith.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)